

**Serial No.: 10/010,403**

**Exhibit A**

**to Non-Final Response to  
January 26, 2007 Office Action**



keyword or company

Search

Register | Sign In

## Current Issue

### 4 Free Issues

#### Subscribe Now

- Home
- INVESTING
- COMPANIES
- TECH
- AUTOS
- INNOVATION
- SMALLBIZ
- B-SCHOOLS
- CAREERS
- ASIA
- EUROPE
- MAGAZINE

SEPTEMBER 4, 2006

### Get Four Free Issues

Register

Subscribe to BW

Customer Service

Full Table of Contents  
Cover Story  
Special Report  
Up Front  
Readers Report  
Corrections & Clarifications  
Technology & You  
Media Centric  
Business Outlook  
The Business Week  
News & Insights

Global Business  
Marketing  
Finance  
Information Technology  
Innovation  
The Corporation  
B-Schools  
Executive Life  
Executive Life -- Parker  
on Wine  
Personal Finance

## Up Front

Edited by Deborah Stead

### Talk Show

"Quattrone was a very big fish, but the evidence against him was not very good." -- *John Fahy, a former federal prosecutor in New Jersey, on former investment banker Frank Quattrone's deal with prosecutors allowing him to avoid a third trial and return to business, as reported by Bloomberg News*

BusinessWeek

Get 4 FREE TRIAL issues!

Click here >

#### STORY TOOLS

►Printer-Friendly Version

►E-Mail This Story

#### ON THIS PAGE

Talk Show

A Stock Soars On High Anxiety

Dear Ben, Feel Our Pain

"Shop In Thrift Stores" (Tip No. 39)

Kicking Wiki Out Of The Patent Office

Two-Minute Warning

#### TODAY'S MOST POPULAR STORIES

1. The Million-Dollar Waitress
2. Who Might Be Eyeing Bristol?
3. Jeep's Unlimited Hit
4. The Street to Yahoo: Be Aggressive
5. Are Wal-Mart's "Organics" Organic?

Get Free RSS Feed >>

#### MARKET INFO

DJIA	13489.42	-146.00
S&P 500	1512.84	-20.36
Nasdaq	2599.96	-28.80

Portfolio Service Update

Stock Lookup

Plus  
 Inside Wall Street  
 Figures of the Week  
 Ideas -- Books  
 Ideas -- Outside Shot  
 Ideas -- The Welch Way

## PREMIUM CONTENT

MBA Insider

## BW MAGAZINE

Get Four Free Issues

Register

Subscribe

Customer Service

## ONLINE FEATURES

Book Reviews

BW Video

Columnists

Interactive Gallery

Newsletters

Past Covers

Philanthropy

Podcasts

Special Reports

## BLOGS

Auto Beat

Bangalore Tigers

Blogspotting

Brand New Day

Byte of the Apple

Deal Flow

Economics Unbound

Fine On Media

Hot Property

Investing Insights

New Tech in Asia

NussbaumOnDesign

Tech Beat

Working Parents

## TECHNOLOGY

J.D. Power Ratings

Product Reviews

Tech Stats

Wildstrom: Tech Maven

## AUTOS

Home Page

Auto Reviews



Musings Of An Adman

"Uncle Sam Or Uncle Sucker?"

The Sweet Smell Of Excess

Juicing Up The BlackBerry

Enter name or ticket



REWIND

## A Stock Soars On High Anxiety

Heavy demand for security technology drove American Science & Engineering ([ASEI](#)) to No. 12 on *BusinessWeek's* latest Hot Growth ranking of 100 small companies earlier this year ([BW -- June 5](#)). But on Aug. 9 the Billerica (Mass.) company announced disappointing earnings, and its stock fell 21%, to 36.30 a share.

Now AS&E's fortunes have changed again -- literally overnight. On Aug. 10, British authorities announced they had thwarted an alleged terrorist plot to blow up airplanes using explosives hidden in sports drinks. AS&E makes X-ray systems for screening cargo, vehicles, luggage, and even people. And unlike standard metal detectors used in airports, its system can spot liquids. It therefore could be used to nab anyone attempting to sneak them onto planes. The U.S. Homeland Security Dept.'s Transportation Security Administration is planning to test AS&E's people-screening systems in airports.

The company's stock flew to 47.20 on news of the terrorist plot, marking a full recovery from its earnings-related swoon. It could take several months for AS&E's top line to reflect the impact of all this. But, says Bob Postle, the company's vice-president for sales and marketing, "we've certainly had an increase in phone calls."

By Ariane Weintraub

[▲](#)  
 BACK TO TOP

.....  
 HOMEBUILDERS

## Dear Ben, Feel Our Pain

With housing slumping dramatically, hopes for a soft landing in the sector could be evaporating. According to Goldman Sachs ([GS](#)), housing inventories are at their highest levels in more than a decade. Just how worried are homebuilders? A few weeks ago, on the eve of the Federal Reserve Board's Aug. 8 Open Market Committee meeting, the National Association of Homebuilders sent letters to Fed Chief Ben Bernanke and each of the other members of the interest-rate-setting committee. The message: Official stats don't capture how badly housing is hurting, since those figures don't include canceled contracts, which doubled over the past year. The letter also argued that inflation is more benign than feared, because one measure, rising rents, is overweighted in the consumer price index. NAHB Chief Economist David Seiders says this is the first time since he joined the staff, in 1984, that the group has written such a letter to the Fed.

Granted, such a move seems mild compared with the actions of the early 1980s, when, to protest double-digit interest rates, a desperate NAHB mailed lumber (two-by-fours, meant to symbolize unbuilt homes) to then Fed Chief Paul Volcker. And it's not known if the NAHB's recent letter influenced the bankers in the marble temple, who chose -- for the first time in two years -- not to raise rates at its August meeting. But, says Tom Schlesinger, director of the Financial Markets Center, a Fed watchdog group, the urgent

Classic Cars

Car Care &amp; Safety

Hybrids

**INNOVATION  
& DESIGN**

Home Page

Architecture

Brand Equity

Auto Design

Game Room

**SMALLBIZ**

Smart Answers

Success Stories

Today's Tip

**INVESTING**

Investing: Europe

Annual Reports

BW 50

S&amp;P Picks &amp; Pans

Stock Screeners

Free S&amp;P Stock Report

**SCOREBOARDS**

Hot Growth 100

Mutual Funds

Info Tech 100

S&amp;P 500

**B-SCHOOLS**

Undergrad Programs

MBA Blogs

MBA Profiles

MBA Rankings

Who's Hiring Grads


**BW EXTRAS**

BW Digital

BW Mobile

BW Online Alerts

Dashboard Widgets

Podcasts RSS Feeds 

Reprints/ Permissions

Conferences

Research Services

communication is "certainly a symptom" of the current anxiety.

*By Catherine Yang*



[BACK TO TOP](#)

**VERBATIM****"Shop In Thrift Stores" (Tip No. 39)**

From "101 Ways to Save Money," sent by Northwest Airlines to a number of employees coping with steep pay cuts and layoffs as part of the airline's plan to emerge from Chapter 11.

- 8. Replace 100 watt bulbs with 60 watt.
- 15. Get hand-me-down clothes and toys for your kids from family and friends.
- 18. Take a shorter shower.
- 21. Make your own baby food.
- 34. Change the oil in your car yourself regularly.
- 46. Don't be shy about pulling something you like out of the trash.



[BACK TO TOP](#)

**CITINGS****Kicking Wiki Out Of The Patent Office**

Patents are enduring, conferring rights on their owners for up to 20 years. Yet until about a week ago, scores of them may have been granted based partly on information that can be altered with a keystroke from anyone surfing the Web.

On Aug. 15, the U.S. Patent & Trademark Office yanked Wikipedia from the digital toolbox its examiners use to help determine a patent application's validity. But over the past several years, examiners used the online encyclopedia, which allows users to edit entries, to inform their decisions. Wikipedia has been cited in patent decisions on everything from car parts to chip designs.

"The problem with Wikipedia is that it's constantly changing," Patents Commissioner John Doll said. "We've taken Wikipedia off our list of accepted sources of information." An agency spokesperson said inquiries from *BusinessWeek* about the use of Wikipedia led to the policy shift.

Critics say the change is long overdue. "I've been complaining about this for years," says Greg Aharonian, publisher of a patent newsletter and a longtime agency gadfly. "From a legal point of view, a Wiki citation is toilet paper." Doll says the agency used Wikipedia entries as background and not as a basis for accepting or rejecting an application.

*By Lorraine Woellert*



[BACK TO TOP](#)

**Two-Minute Warning**

The NFL almost fumbled this one. Less than a month before the start of the regular season on Sept. 7, it realized that its Wilson footballs, signed by retiring Commissioner Paul Tagliabue and still in production, were soon to be obsolete. It wasn't until Aug. 10, two days after Roger Goodell was named to the post, that Wilson Sporting Goods began to crank out Goodell-signed pigskins at its Ada (Ohio) plant, which will work overtime to make the 9,000 used in a season. Chris Considine, Wilson's president, says the factory lifted Goodell's signature from the contract he signed with Wilson as the NFL's COO. As for the 5,000 Tagliabue balls ready to go, the league will eat the costs (about \$250,000) and donate them to high schools.

*By Tom Lowry*



[BACK TO TOP](#)

BLOSSFOTTING

## Musings Of An Adman

[russelldavies.typepad.com/](http://russelldavies.typepad.com/)

## WHY READ IT

Advertising account planners -- the folks who interpret customer research and make sure the creative types are lined up with client strategies -- can learn from a master, Russell Davies, who gives "homework" assignments on this blog. For those outside advertising, this former head of planning at Nike ([NKE](#)) and ad shop Wieden+Kennedy has something for everyone: snapshots of ads and images that inspire him, theories about brand authenticity, and, it must be said, some really cute pictures of his son, Arthur.

*By Jena McGregor*



[BACK TO TOP](#)

---

TRADE TALK

## "Uncle Sam Or Uncle Sucker?"

Stock up on red chili peppers and buy that granite countertop now: Chuck Grassley, Senate Finance Committee chief, wants to stop U.S. tariff breaks to India (chilies) and Brazil (a granite exporter). Grassley (R-Iowa), who blames the countries for stalling the recent Doha trade talks, says that unless the White House ends preferential treatment for the two nations, he will block renewal of the \$1 billion, 140-country program that makes some imports from developing nations duty free. "Are we Uncle Sam or Uncle Sucker?" he asks.

The U.S. Trade Representative's Office is reviewing the program, with comments due Sept. 5. It may get an earful about some unintended consequences of Grassley's plan. McCormick & Co. ([MKC](#)) gets 80% of its chili peppers from India, and U.S. jewelers sell India's diamond rings. Importers of auto parts from Brazil may be hit harder: it's tough to find suppliers of these highly engineered items, says the Motor & Equipment Manufacturers Assn.

*By Catherine Yang*



[BACK TO TOP](#)

---

EAU DU JOUR

## The Sweet Smell Of Excess

Perhaps the fragrance industry's next scent should be called Proliferation. Trying to hang on to market share as industry growth flattens, makers are introducing scent after scent. "It's a challenging and extremely competitive time," says Karen Grant, a senior beauty analyst at market research firm NPD Group. Last year a record 124 new perfumes and colognes hit U.S. department stores. That figure, which doesn't include "mass" fragrances sold at stores like CVS ([CVS](#)) and Target ([TGT](#)), tops the number of so-called prestige scents launched during the 1970s and 1980s.

This year is expected to be even more prolific. About 200 prestige fragrances should be launched by yearend, including brands from celebrities (Derek Jeter's Driven, for instance), TV shows (*Desperate Housewives'* Forbidden Fruit), and clothing lines (Juicy Couture, from the fashion brand of the same name).

Grant says the profusion of scents started in 2002, in the post-9/11 economic downturn. Since then fragrance growth has been minimal, despite successes like Britney Spears's Curious, which racked up \$125 million in global sales in 2004 and 2005, according to Euromonitor. This year, Grant predicts, the almost \$3 billion prestige market will stay flat or rise just 1%.

The flood of products means that most scents have a shorter life cycle -- a year at most, vs. about three years in the past, says Micheline Jordaan, Divisional Merchandise Manager of Fragrance for Macy's ([FD](#)) East.

Bernd Beetz, CEO of COTY, however, appears to shrug off such worries. He compares the turnover to fashion's fast pace: "Are there too many fragrances on the market?" he says. "That's like asking, 'Do you ever have enough clothes?'"

*By Elizabeth Woyke*



[BACK TO TOP](#)

---

WIRELESS WORLD

## Juicing Up The BlackBerry

Got your belt clip handy? Research In Motion (**RIMM**) is preparing to launch the latest BlackBerry, the Pearl, that should appeal to more than just harried executives. In a revamp of its business model, the Waterloo (Ont.) company and wireless carrier T-Mobile will pitch the device to regular, gadget-loving consumers starting in mid-September. About the same size as Motorola's (**MOT**) popular Razr phone, the Pearl will have a built-in digital camera, Bluetooth wireless capability, and a memory-card expansion slot to handle music and video.

Now that even soccer moms are managing their lives by mobile e-mail and text messaging, wireless carriers have been pushing RIM to create more consumer-friendly products. And they seem to be happy with RIM's effort. Cingular Wireless is expected to add the BlackBerry Pearl to its lineup this fall. Other carriers are testing it, too.

RIM is jumping into a crowded market dominated by Nokia (**NOK**), Motorola, Samsung, and others -- but it has no choice. Since January, its market share of corporate e-mail activations slipped five percentage points, to 59%, in a market that's still growing, says researcher Strategy Analytics.

There is a risk that RIM's move will turn off its most important customers, corporations that treasure the BlackBerry because it is more secure than other wireless e-mail systems. That's precisely because RIM hasn't permitted expansion slots, cameras, and other popular features.

*By Cliff Edwards and Roger O. Crockett*



[BACK TO TOP](#)

---

Copyright 2006, by The McGraw-Hill Companies Inc. All rights reserved.  
[Terms of Use](#) | [Privacy Notice](#)

[Media Kit](#) | [Special Sections](#) | [MarketPlace](#) | [Knowledge Centers](#)

**The McGraw-Hill Companies**